



Exemption from income tax is a matter of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions. Section 6033 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

Despite numerous requests to you to provide information to conduct an examination of your form 990 for the year ended 12/31/20XX, no requested information has been provided to us.

Based upon the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code retroactively to January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by writing to: Internal Revenue Service, Taxpayer Advocates Office

. Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez
Director, EO Examinations

Internal Revenue Service

Department of the Treasury
Tax Exempt & Government Entities Division
1244 Speer Blvd, Suite 442
Denver, Colorado 80204

Date: May 30, 2007

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Ramirez
Director, E.O. Examination

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX

LEGEND

ORG = Organization name XX = Date Address = address XYZ = State
 President = President City = city

Issue:

Whether the tax-exempt status of an organization that operates an animal humane society whose mission is the housing and protection of animals, should be revoked?

Facts:

The ORG was founded in XYZ on February 17, 20XX. The mission of the organization was to be a nonprofit shelter and sanctuary for all hooved animals, poultry, and domestic birds.

The organization was contacted by telephone on 19 April 20XX; however, an officer or director was not available. The examiner once again attempted to contact the organization by telephone on 3 May 20XX; however, once again there was no one available to speak to examiner.

Correspondences were mailed requesting the organization provide documentation verifying its continued qualification for exemption. These letters were sent to the organization's last known address; Address; on 3 May 20XX. No response was received within two weeks of the letter. Another letter was sent to the organization on 1 June 20XX, this letter was also not responded to. On 28 August 20XX, certified letters were sent to the last known address of the organization and registered agent. The Letter sent to Address was delivered on September 6, 20XX to XYZ. The Letter addressed to the Registered Agent at Address was returned undeliverable.

The organization has not filed information returns (990) with the Internal Revenue Service for any period since its inception.

Documents obtained from the XYZ Department of Agriculture, indicate that an investigation was opened on 11 March 20XX into allegations of animal cruelty, and other complaints. The report indicates that the animals were not being properly cared for, which had led some of the horses to be underweight, and have medical problems. The XYZ Department of Agriculture advised the organization president that the case would be presented to the City County Attorney's office for review.

Court documents from the Justice Court, in City County XYZ indicate that the Judge found President—President of the ORG—guilty of XYZ Revised Statue 13-2910—Cruelty to Animals—A class 1 misdemeanor.

Documents obtained from the City County Sheriff's Office, indicate that the Sheriff's office was called to the site of the ORG at Address on 25 October 20XX. The report also indicated that there were fifty (50) animals at the site; and that the organization could not properly feed or obtain medical treatment for the animals. Five horses were surrendered to the sheriffs

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office, and three were euthanized. The case was referred to the City County Attorneys office for charges under under XYZ Revised Statue 13-2910A1, and 13-2910A2.

Court documents from the Superior Court of XYZ, City County indicate that President—President of the ORG— pleaded guilty to two (2) Charges of Animal Cruelty under XYZ Revised Statue 13-2910—Cruelty to Animals—A class 6 Undesignated Felony.

Law:

IRC Sec. 501(c)(3) allows for the exemption from Federal income tax an organization that is:
 Organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals”

Treasury Regulation §1.501(c)(3)-1(a) provides, in general:

In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.”

Treasury Regulation §1.501(c)(3)-1(c)(1) provides,

An organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treasury Regulation §1.501(c)(3)-1(c)(2) provides,

That the operational test is not satisfied where any parts of the organization’s earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private rather than public interest.

Treasury Regulation §1.501(c)(3)-1(d)(1)(ii) provides:

That an organization is nor organized or operated exclusively for one or more of the purposes specified in IRC §501(c)(3) unless it serves a public rather than a private interest.

Treasury Regulation §1.501(c)(3)-1(e) provides, in general:

An organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or

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business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513."

IRC § 6001 provides:

that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides:

except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides:

that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states:

that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg § 1.6033-1(h)(2) provides:

that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The

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Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Rev. Rul. 71-447, 1971-2 CB 230 concerned a private school that otherwise meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1954; and whether it continued to qualify for exemption from Federal income tax if it does not have a racially nondiscriminatory policy as to students. The Service held that the all charitable trusts, educational or otherwise, are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy, "A Trust for a purpose the accomplishment of which is contrary to public policy, although not forbidden by law is invalid". Racial discrimination in education is contrary to Federal Public Policy, therefore a school not having such policy is not charitable within the common law sections of 170 and 501(c)(3).

Rev. Rul 75-384, 1975-2 CB 204, concerned an organization formed to promote world peace and disarmament by nonviolent direct action and whose primary activity was the sponsoring of antiwar protest demonstrations in which demonstrators were urged to commit violations of local ordinances and breaches of public order. The service held Illegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the common good and the general welfare of the people in a community and thus are not permissible means of promoting the social welfare for purposes of section 501(c)(4) of the Code. Accordingly, the organization is not operated exclusively for the promotion of social welfare and does not qualify for exemption.

Governments Position:

Contact with the organization has been attempted multiple times; each attempt to contact the organization has generated no response to request for information.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax. The organization has not filed a return since its inception, and request to provide information to substantiate the organization's ongoing exempt status have largely gone ignored.

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And, as a matter of trust law, one of the main sources of the general law of charity, no trust can be created or operated for a purpose which is illegal. The purpose is illegal if the trust property is to be used for an object which is in violation of the criminal law, or if the trust tends to induce the commission of crime, or if the accomplishment of the purpose is otherwise against public policy. Thus, all charitable trusts (and by implication all charitable organizations, regardless of their form) are subject to the requirement that their purposes may not be illegal or contrary to public policy. See Rev. Rul. 71-447, 1971-2 C.B. 230; Rev Rul. 75-384 1975-2 CB 204.

In this case, the organization committed criminal acts under XYZ state law that resulted in the neglect and abuse of animals located at its sanctuary. The officers in the past have been held liable for the same crimes of neglect. The repeated nature of these crimes precludes the possibility that the organization might unfairly fail to qualify for exemption due to an isolated or inadvertent violation of a regulatory statute. Its activities demonstrate an illegal purpose which is inconsistent with charitable ends. Moreover, the generation of criminal acts increases the burdens of government, thus frustrating a well recognized charitable goal, *i.e.*, relief of the burdens of government; care and protection of animals.

Illegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the goal of preventing cruelty to children or animals, the common good and the general welfare of the people in a community and thus are not permissible means of promoting the purposes of section 501(c)(3) of the Code.

Accordingly, the organization is not operated exclusively for charitable purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Taxpayer's Position:

The Taxpayer does not currently have a stated position.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). In addition, the organization's activities have been executed in a manner that is against public policy, and increased the burdens of government.

Accordingly, the organization's exempt status is revoked effective January 1, 20XX

Form 1120 returns should be filed for the tax periods ending on or after December 31, 20XX